

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of: YUAN)

Serial No.: Divisional of 09/487,942)

Group Art Unit: TBD

Filed: Concurrently Herewith)

Examiner: TBD

For: **DEVICE FOR SECURING
SPINAL RODS**)

Commissioner for Patents
Washington, DC 20231

PRELIMINARY AMENDMENT UNDER 37 C.F.R. §1.115

Sir:

Prior to examination of the above-identified application, please enter the
amendments and remarks set forth below:

I hereby certify that this correspondence is being deposited with the United States Postal Service as express mail
in an envelope addressed to: BOX PATENT APPLICATION, Commissioner for Patents, Washington, D.C. 20231 on

March 6, 2002

(Date of Deposit)

Edith D. Sillman

3/6/02

(Date of Signature)

IN THE SPECIFICATION:

Please replace the section entitled "CROSS-REFERENCE TO RELATED APPLICATIONS" with the following paragraph:

--The subject application is a divisional application of copending U.S. Appln. Serial No. 09/487,942 filed January 19, 2000, which is a continuation-in-part of both U.S. Appln. Serial No. 09/167,439 filed October 6, 1998 and U.S. Appln. Serial No. 09/098,927 filed June 17, 1998, the disclosures of which are herein incorporated by reference in their entireties.--

IN THE CLAIMS:

Please Cancel 41 through 68 without prejudice.

Please Replace Claims 1, 11, 15 and 16 with Amended Claims 1, 11, 15 and 16 which read as follows:

--1. (Amended) A device for securing a spinal rod to the spine comprising:

- a) a head portion having a channel extending therethrough configured to receive a spinal rod;
- b) a locking cap configured to engage an interior camming surface of the channel and an exterior surface of the spinal rod upon rotation of the locking cap relative to the head portion through a 90° arc to secure the position of the head portion relative to the spinal rod; and
- c) a fastener portion depending from the head portion and configured to engage the spine.--

--11. (Amended) A device as recited in Claim 4, wherein the opposed engagement slots are each defined in part by inclined slot surfaces, with the angle of the inclined slot surface of one engagement slot being opposite that of the opposed engagement slot, and wherein the opposed engagement flanges are each defined in part by inclined flange surfaces, with the angle of the inclined flange surface of one engagement flange being opposite that of the opposed engagement flange.--

--15. (Amended) A device for securing a spinal rod to the spine comprising:

- a) a head portion having a channel extending therethrough defining a vertical axis and a horizontal axis, and configured to receive a spinal rod along the horizontal axis;
- b) a locking cap configured for reception by the head portion along the vertical axis of the channel and adapted to engage an interior surface of the channel and an exterior surface of the spinal rod upon rotation of the locking cap about the vertical axis through a 90° arc to secure the position of the head portion relative to the spinal rod; and
- c) a fastener portion depending from the head portion and configured to engage the spine.--

--16. (Amended) A device for securing a spinal rod to the spine comprising:

- a) a head portion having a channel extending therethrough for receiving a spinal rod;
- b) a locking cap configured to cooperate with an interior camming surface of the channel and an exterior surface of the spinal rod upon rotation of the locking cap relative

to the head portion between an unlocked position and a locked position through a 90° arc to secure the position of the head portion relative to the spinal rod; and

c) a fastener portion depending from the head portion and configured to engage the spine.--

REMARKS

Early and favorable consideration of the above-identified application in view of the preceding amendments and the following remarks is respectfully requested.

Claims 1-68 were initially pending in the parent of the subject application, namely U.S. Appln. Serial No. 09/487,942. During the prosecution of the '942 application, in an Office Action dated March 27, 2001, the claims were subject to an initial election requirement. In response thereto, Claims 1-4, 9-18, 20-24, 26 and 32-68 were elected for prosecution on the merits. Also in response to the Office Action, Claims 1, 11, 15 and 16 were amended to place them in condition for allowance. In a subsequent Office Action dated October 10, 2001, a second election requirement was set forth and Claims 1-40 were allowed. In response, to the Office Action, Claims 41-68 were elected for prosecution on the merits, while allowed Claims 1-40 were cancelled without prejudice as being directed to non-elected subject matter.

By way of this preliminary amendment, original Claims 41-68 have been cancelled without prejudice so that only Claims 1-40 are pending in this application. Also, Claims 1, 11, 15 and 16 have been amended from their original form so that they are now in the condition in which they were previously allowed during the prosecution of the '942 application..

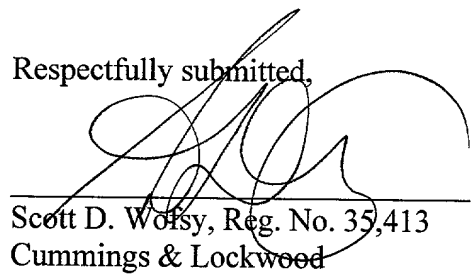
Accordingly, allowance of the subject application is earnestly solicited.

If after reviewing this amendment, the Examiner believes that a telephone or personal interview would facilitate the resolution of any remaining matters the undersigned attorney may be contacted at the number set forth hereinbelow.

Date :

3/6/02

Respectfully submitted,



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APPENDIX OF THE AMENDED CLAIMS

1. (Amended) A device for securing a spinal rod to the spine comprising:

- a) a head portion having a channel extending therethrough configured to receive a spinal rod;
- b) a locking cap configured to engage an interior camming surface of the channel and an exterior surface of the spinal rod upon rotation of the locking cap relative to the head portion through a 90° arc to secure the position of the head portion relative to the spinal rod; and
- c) a fastener portion [formed monolithic with and] depending from the head portion and configured to engage the spine.

11. (Amended) A device as recited in Claim [3] 4, wherein the opposed engagement slots are each defined in part by inclined slot surfaces, with the angle of the inclined slot surface of one engagement slot being opposite that of the opposed engagement slot, and wherein the opposed engagement flanges are each defined in part by inclined flange surfaces, with the angle of the inclined flange surface of one engagement flange being opposite that of the opposed engagement flange.

15. (Amended) A device for securing a spinal rod to the spine comprising:

- a) a head portion having a channel extending therethrough defining a vertical axis and a horizontal axis, and configured to receive a spinal rod along the horizontal axis;

b) a locking cap configured for reception by the head portion along the vertical axis of the channel and adapted to engage an interior surface of the channel and an exterior surface of the spinal rod upon rotation of the locking cap about the vertical axis through a 90° arc to secure the position of the head portion relative to the spinal rod; and

c) a fastener portion [formed monolithic with and] depending from the head portion and configured to engage the spine.

16. (Amended) A device for securing a spinal rod to the spine comprising:

a) a head portion having a channel extending therethrough for receiving a spinal rod;

b) a locking cap configured to cooperate with an interior camming surface of the channel and an exterior surface of the spinal rod upon rotation of the locking cap relative to the head portion between an unlocked position and a locked position through a 90° arc to secure the position of the head portion relative to the spinal rod; and

c) a fastener portion [formed monolithic with and] depending from the head portion and configured to engage the spine.